

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

TRAVIS DEAN DOWNING,)	
)	
Plaintiff,)	
)	
-vs-)	Case No. CIV-19-452-F
)	
FNU MARTIN, Warden, et al.,)	
)	
Defendants.)	

ORDER

United States Magistrate Judge Gary M. Purcell issued a Report and Recommendation, recommending that plaintiff's 42 U.S.C. § 1983 action be dismissed without prejudice based on his failure to serve defendants and comply with the court's orders. Magistrate Judge Purcell advised plaintiff of the right to file an objection to the Report and Recommendation by November 12, 2019 and further advised that failure to timely object would waive appellate review of the recommending ruling.


The record reflects that the Report and Recommendation was mailed to plaintiff's last known address and was returned undeliverable.¹ Pursuant to LCvR5.4(a), "[p]apers sent by the court will be deemed delivered if sent to the last known address given to the court." Because the Report and Recommendation is

¹ Although the Report and Recommendation was mailed to plaintiff's last known address, it appears from the envelope that an attempt may have been made to forward the Report and Recommendation to the Davis Correctional Facility in Holdenville, Oklahoma. The records of the Oklahoma Department of Corrections indicate that plaintiff is currently at that facility. The envelope, however, was returned to the court with a sticker dated November 2, 2019, stating "Return to Sender Refused Unable to Forward." Doc. no. 10.

deemed delivered to plaintiff and plaintiff has not objected to the recommended ruling within the time specified by Magistrate Judge Purcell, the court accepts, adopts and affirms the Report and Recommendation in its entirety.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Gary M. Purcell on October 22, 2019 (doc. no. 9) is **ACCEPTED, ADOPTED** and **AFFIRMED**. The above-entitled action is **DISMISSED WITHOUT PREJUDICE** based on plaintiff's failure to serve defendants and comply with the court's orders. Judgment shall issue forthwith.

IT IS SO ORDERED this 13th day of November, 2019.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE